

GORDON H. DePAOLI
Nevada State Bar No. 195
DALE E. FERGUSON
Nevada State Bar No.4986
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775 / 688-3000

Attorneys for WALKER RIVER IRRIGATION
DISTRICT

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125
)	SUBFILE NO. C-125-B
Plaintiff,)	
)	
WALKER RIVER PAIUTE TRIBE,)	WALKER RIVER IRRIGATION
)	DISTRICT'S COMMENT
Plaintiff-Intervenor,)	CONCERNING FIFTEENTH
)	SERVICE REPORT
v.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
<hr/>		
UNITED STATES OF AMERICA,)	
WALKER RIVER PAIUTE TRIBE,)	
)	
Counterclaimants,)	
)	
v.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
et al.,)	
)	
Counterdefendants.)	
<hr/>		

By Order dated March 8, 2010, the Court established procedures and a schedule for parties to file comment on the Fifteenth Service Report (the "Service Report") of the United States. The Walker River Irrigation District (the "District") provides the following comment.

1 In many instances, the Service Report seeks to substitute new parties to the action based
2 upon a transfer of ownership of the water right at issue. For example, at paragraphs 49 and 50
3 of the Service Report, the United States requests that Michael L. and Nancy Bradley be
4 substituted as successors in interest to Glenn D. and Tracy L. Fannin. It appears that Michael
5 L. and Nancy Bradley are "new" parties to the action that have not been previously served
6 pursuant to Rule 4 of the Federal Rules of Civil Procedure.
7

8 Rule 25(c) of the Federal Rules of Civil Procedure allows for the substitution of the
9 transferee into the action, upon motion, when an interest in the litigation is transferred. The
10 motion for substitution must be served upon nonparties to the litigation pursuant to Rule 4. *See*
11 *Federal Rules of Civil Procedure 25(c) and 25(a)(3).*

12 In most instances, the Service Report does not indicate if parties that the United States
13 seeks to substitute into the action have been served pursuant to Rule 4. The District is
14 concerned that the Court may lack personal jurisdiction over those new parties sought to be
15 substituted absent service pursuant to Rule 4 as required by Rule 25 of the Federal Rules of
16 Civil Procedure.
17

18 DATED this 9th day of April, 2010.

19 WOODBURN AND WEDGE

20
21 By: Dale E. Ferguson
22 Dale E. Ferguson
23 6100 Neil Road, Suite 500
24 Reno, Nevada 89511
25 Attorneys for WALKER RIVER IRRIGATION
26 DISTRICT
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of Woodburn and Wedge and that on the 9th day of April, 2010, I electronically served the foregoing *Walker River Irrigation District's Comments Concerning Fifteenth Service Report* with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following via their email addresses:

Linda Ackley
lackley@water.ca.gov

Marta Adams
maadams@ag.state.nv.us, payoung@ag.state.nv.us

Greg Addington
greg.addington@usdoj.gov, judy.farmer@usdoj.gov, joanie.silvershield@usdoj.gov

George Benesch
gbenesch@sbcglobal.net

Karen Peterson
kpeterson@allisonmackenzie.com, jjonas@allisonmackenzie.com

Simeon Herskovits
simeon@communityandenvironment.net

John W. Howard
johnh@jwhowardattorneys.com, elisam@jwhowardattorneys.com

Michael D. Hoy
Michael D Hoy mhoy@nevadalaw.com

Erin K.L. Mahaney
emahaney@waterboards.ca.gov

David L. Negri
david.negri@usdoj.gov

Michael W. Neville
michael.neville@doj.ca.gov, wallace.greene@doj.ca.gov

Susan Schneider
susan.schneider@usdoj.gov

Laura Schroeder
counsel@water-law.com

Stacey Simon

1 ssimon@mono.ca.gov

2 Wes Williams
3 wwilliams@standfordaluni.org

4 and I further certify that I served a copy of the foregoing to the following by U.S. Mail, postage
5 prepaid, this 9th day of April, 2010:

6 Kenneth Spooner
7 General Manager
8 Walker River Irrigation District
9 P.O. Box 820
10 Yerington, NV 89447

William W. Quinn
Office of the Field Solicitor
Department of the Interior
401 W. Washington St., SPC 44
Phoenix, AZ 85003

11 Mary Hackenbracht
12 Deputy Attorney General
13 State of California
14 1515 Clay St., 20th Floor
15 Oakland, CA 94612-1413

Tracy Taylor
Division of Water Resources
State of Nevada
901 S. Stewart St.
Carson City, NV 89701

16 Garry Stone
17 United States District Court Water Master
18 290 S. Arlington Ave., 3rd Floor
19 Reno, NV 89501

Allen Biaggi
Dir. of Conservation & Natural Resources
State of Nevada
901 S. Stewart St.
Carson City, NV 89701

20 John Kramer
21 Dept. of Water Resources
22 1416 Ninth St.
23 Sacramento, CA 95814

Wesley G. Beverlin
Malissa Hathaway McKeith
Lewis, Brisbois, Bisgaard & Smith LCP
221 N. Figueroa St., Suite 1200
Los Angeles, CA 90012

24 James Shaw
25 Water Master
26 U.S. Board of Water Commissioners
27 P.O. Box 853
28 Yerington, NV 89447

Robert L. Auer
Lyon County District Attorney
31 S. Main St.
Yerington, NV 89447

29 Tim Glidden
30 U. S. Dept. of the Interior, Office of the
31 Secretary, Div. Of Indian Affairs
32 1849 C St. N.W.
33 Mail Stop 6456
34 Washington, D.C. 20240

Cheri Emm-Smith
Mineral County District Attorney
P. O. Box 1210
Hawthorne, NV 89415

35 Marshall S. Rudolph, Mono County Counsel
36 Stacy Simon, Deputy County Counsel

William E. Schaeffer
P. O. Box 936

1 Mono County
2 P. O. Box 2415
3 Mammoth Lakes, CA 93546-2415

Battle Mountain, NV 89820

4 Todd Plimpton
5 Belanger & Plimpton
6 1135 Central Ave.
7 P.O. Box 59
8 Lovelock, NV 89419

Nathan Goedde, Staff Counsel
California Dept. of Fish and Game
1416 Ninth St., #1335
Sacramento, CA 95814

9 Jeff Parker
10 Deputy Atty. General
11 Office of the Attorney General
12 100 N. Carson St.
13 Carson City, NV 89701-4717

Timothy A. Lukas
P.O. Box 3237
Reno, NV 89505

Candace F. Mayhew